

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

ROBERT DIETRICH,)	
)	
Petitioner)	
)	
vs.)	CAUSE NO. 3:12-CV-262 RM
)	(Arising out of 3:09-CR-25(01)RM)
UNITED STATES OF AMERICA,)	
)	
Respondent)	

OPINION and ORDER

Robert Dietrich has filed a motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct the judgment entered against him on August 27, 2009. Mr. Dietrich claims he received ineffective assistance of appellate counsel, a fact he says he only recently discovered when “another inmate reviewed the procedural history of [his] case . . . and discovered that the appellate counsel was ineffective.” Petn., at ¶ 18.

This court denied Mr. Dietrich’s original § 2255 petition on April 21, 2010, and the Seventh Circuit Court of Appeals affirmed that decision on November 19, 2010. Thus, Mr. Dietrich’s current filing must be considered to be a second or successive petition under § 2255. 28 U.S.C. § 2244 provides that before a second or successive motion is filed with the district court, “the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.”

Because Mr. Dietrich hasn't alleged or established that he received proper authorization to file a successive motion, his petition [filed May 24, 2012] is DENIED as not properly before this court.

SO ORDERED.

ENTERED: May 30, 2012

/s/ Robert L. Miller, Jr.
Judge, United States District Court

cc: R. Dietrich
AUSA Barrett